

REMARKS

This paper is in response to the Office Action dated October 3, 2008. Claims 1 – 12 are in the application.

Applicants respectfully traverse the § 103 rejection of claims 1 – 12 as being unpatentable over Wichert et al (US 6,890,889) in view of Piper et al (US 2005/0202972) and further in view of Palgrave (US 4,331,490).

By way of summary, the presently claimed invention relates to ionic nitrate salt corrosion inhibitor additives for aqueous-containing pesticide concentrate formulations that will be effective under potentially severe corrosion conditions such as when the pH of the composition is less than or equal to 6 and/or wherein a salt or metal complex is present.

Wichert *et al* (Wichert), on the other hand, relates to the provision of a mesotrione formulation which has an optimised adjuvant system which provides optimal weed control with minimal crop damage.

Likewise, Piper *et al* (Piper) relates to the provision of an adjuvant system which provides improved weed control with regard to the copper chelate of mesotrione – while retaining minimal crop damage.

Thus it can be seen that both Wichert and Piper relate to the provision of herbicide (mesotrione) formulations which improve crop selectivity. The focus of the Wichert and Piper teaching is, therefore, on herbicide formulations which are final formulations actually applied to the field.

As noted above, the present invention relates to aqueous pesticidal concentrates having reduced corrosion properties. Since neither Wichert nor Piper is related, *per se*, to this particular problem it is considered unlikely that one of ordinary skill would consider such references with regard the subject matter of the present invention. It appears that the Examiner has merely chosen to adopt – and combine - these references in hindsight having had the benefit of the present invention.

As appreciated by the Examiner, Wichert teaches a herbicidal composition comprising (A) mesotrione and (C) about 0.5 to about 5% of a urea ammonium nitrate on a volume to volume basis. A difference between the invention of the instant application and that of Wichert is that the instant invention relates to overcoming a problem associated with a "concentrate" formulation – rather than one which is directly applied to a field. Thus, the formulation of the present invention and that taught by Wichert are very different.

For example, with regard to the "preferred" formulations taught by Wichert (column 6) it can be seen that a typical 379 litre formulation contains 1 kg of mesotrione and 5.7 liters of urea ammonium nitrate (UAN). Thus, the teaching of Wichert suggests to one of ordinary skill a formulation in which mesotrione is present at 0.26% by weight and teaches UAN to be present at 1.5 % v/v. Thus it can be seen that the amount of mesotrione present in the formulation envisaged by Wichert is nearly 20 times less than that of the formulation of the present invention as recited in claim 1 (5 – 90%).

Another important feature of claim 1 is that the ratio of component c) to component b) is less than or equal to 0.3:1. This means that, with regard to the formulation of the present invention, there is less ionic nitrate salt additive (component (c)) present in the formulation than pesticide (component (b)). With regard to the teaching of Wichert it can be seen that there is significantly more nitrate in the solution compared to pesticide. Accordingly, Wichert teaches away from the presently claimed invention.

Thus it can be seen that the formulations envisaged by Wichert – which address the problem of improving crop selectivity – are unrelated to those of the present invention – which provide reduced corrosion.

The deficiencies in Wichert outlined above (concentrate formulation, concentration of pesticide present, and ratio of nitrate to pesticide) are simply not remedied by the teaching of Piper or Palgrave – even if they were combined as suggested by the Examiner.

Accordingly, it is submitted that the claims are not obvious in view of the prior art references cited by the Examiner. Reconsideration and withdrawal of the § 103 rejection of claims 1 – 7 are respectfully requested.

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In view of the foregoing remarks, Applicants submit that the subject matter of the claims is patentable and that such claims are in condition for allowance. Reconsideration and withdrawal of all rejections are respectfully requested, along with the issuance of a Notice of Allowance.

Respectfully submitted,

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